

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on	)	Rule and Regulation No. 170
its own motion, seeking to amend Title 291,	)	
Chapter 7, Transmission Lines Rules and	)	Comments of Verizon
Regulations, to adopt rules regarding wires	)	
crossing any railroad track at public	)	
highway crossings in the State of Nebraska	)	
in accordance with <u>Neb. Rev. Stat.</u>	)	
§§ 75-702 to 75-724.	)	

Verizon<sup>1</sup> requests that the Commission amend its proposed rules to allow for the construction of wire crossings while a petition requesting a hearing on disputed terms of a wire crossing agreement is pending before the Commission. Such an amendment would avoid construction delays pending completion of a binding wire crossing agreement.

All customer and network wire crossing projects are time sensitive. Absent the ability to begin construction of a wire crossing, the proposed rule under Subsection 003.04 adds unnecessary time to the construction process, thereby putting any construction schedule in jeopardy. Such delays may result in the loss of affected customers if the required product or network that is being constructed cannot be delivered on time.

An example of construction delays resulting from difficulties in negotiating a wire crossing agreement recently occurred in Illinois. Verizon is negotiating a proposed rail crossing agreement in the Chicago area in order to provide facilities to serve a customer. Because all of the affected parties cannot reach a wire crossing agreement with the owner of the rail corridor, Verizon is unable to timely provide the contracted services to its customer as requested. The customer has been waiting four months for facilities that Verizon could have otherwise installed within approximately three weeks.

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<sup>1</sup> These comments are filed on behalf of the subsidiaries of Verizon Communications Inc. that are regulated by the Nebraska Public Service Commission.

Creation of a process for the Commission to resolve disputes in the negotiation of wire crossing agreements is a positive step toward addressing this problem. However, it will not go far enough if construction cannot begin on a wire crossing while the Commission resolves the contractual dispute. Accordingly, Verizon requests the Commission add a subsection 003.4E to its proposed rules that would allow a party who has filed a petition requesting a hearing with the Commission to construct a wire crossing in order to install any necessary facilities to serve customers while a petition requesting a hearing is pending. The rule would make clear that any party that constructs such a wire crossing will be bound by the terms of any order issued subsequently by the Commission on the wiring crossing agreement. Verizon proposes that the new subsection state:

003.4E. In the event a crossing entity and railroad are unable to reach a binding agreement establishing the terms and conditions for a proposed wire crossing, and the crossing entity has filed with the Commission a petition requesting a hearing, the crossing entity may begin construction of the wire crossing while the petition is pending and the railroad must cooperate with the crossing entity in the construction of such wire crossing. Any crossing entity that begins construction of a wire crossing under this subsection, shall be bound by the terms and conditions established by any subsequent lawful Commission order addressing the wire crossing at issue.

Wherefore, Verizon respectfully requests that the Commission amend its proposed rules regarding wire crossings as proposed above.

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